

Site: *Picillo*  
 Break: *11.9*  
 Other: *644779*

*10/27/87*

**URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

American Hoechst Corp.  
 Rhode Island Works  
 129 Quidnick Street  
 Coventry, RI 02816



SEMS DocID 644279

Re: Picillo Site, Coventry, Rhode Island, (the Site)

Dear Sir or Madam:

**NOTICE OF POTENTIAL LIABILITY**

This letter is to notify you of potential liability which your company may incur or may have incurred with respect to the above-referenced Site; to make a formal demand for reimbursement of the costs, including interest thereon, that have been incurred in response to the environmental problems at the Site, and to request your voluntarily participating in performing or financing the remaining response actions necessary at the Site.

The United States Environmental Protection Agency (EPA) has documented the release and threatened release of hazardous substances, pollutants and contaminants at the above referenced Site. EPA has spent and is considering spending public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a responsible party or parties will properly perform or finance such actions, EPA will itself perform these actions pursuant to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 *et seq.* (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (SARA).

Under Section 106(a) of CERCLA, Section 107(a) of CERCLA, 42 U.S.C. §9606(a) and §9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. §6973 (RCRA), and other laws, responsible parties may be obligated to implement relief actions deemed necessary by EPA to protect the public health,

**CONCURRENCES**

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SURNAME	<i>Wenger</i>	<i>Katz</i>	<i>Moynihan</i>	<i>Coyle</i>	<i>Murray</i>			
DATE	<i>9/9/87</i>	<i>10/8/87</i>	<i>10/27/87</i>	<i>10/27/87</i>	<i>10/27/87</i>			

welfare or environment and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. Such costs may include, but are not limited to, expenditures for investigation, planning, response and enforcement activities. Responsible parties under CERCLA include current and former owners and operators of the Site as well as persons who arranged for disposal of hazardous substances found at the Site, or persons who accepted hazardous substances for transport to the Site.

EPA has evaluated a large body of evidence in connection with its investigation of the Site, including among other items, business records, invoices, documents produced in litigation and deposition testimony.

Based on this evidence, EPA has information indicating that you are a potentially responsible party with respect to this Site. Specifically, EPA has reason to believe that you are, by contract, agreement, or otherwise, responsible for the disposal, treatment, or transportation for disposal or treatment of hazardous substances found at the facility. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to reimburse EPA for the costs incurred to date and to voluntarily perform or finance the response activities that EPA has determined are required at the Site.

#### DEMAND FOR PAYMENT OF COSTS INCURRED TO DATE

In accordance with CERCLA and other authorities, EPA has already undertaken certain actions and incurred certain costs in response to conditions at the Site. These response actions include emergency removal and treatment of hazardous waste, and a Remedial Investigation and Feasibility Study (RI/FS) to determine the nature and extent of on-site and offsite contamination and to evaluate possible remedial alternatives for containment, removal or treatment of the soil and/or groundwater.

These activities have been undertaken by EPA pursuant to, inter alia, Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. §9601 et seq, as amended. Based on the RI/FS and comments received on these studies, EPA signed a Record of Decision (ROD) on March 3, 1987, specifying certain remedial actions consistent with the National Contingency Plan. A portion of these remedial actions will be undertaken by EPA unless EPA determines that such action will be done properly by a responsible party.

The Agency anticipates expending additional funds for response activities at the Site under the authority of CERCLA and other laws, including those response activities described in							
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the Record of Decision (ROD). In accordance with Section 107 (4)(D) of CERCLA, as amended by Section 107(b) of SARA, demand is hereby made for payment of past costs plus any and all interest authorized to be recovered under that Section or under any other provisions of law. The cost to date of the response actions performed through EPA funding at the site is currently approximately four million dollars. Demand is also hereby made under these authorities for payment of interest on all future costs that EPA may accrue in regard to the Site.

### Negotiation Procedures

Because of negotiations already underway, EPA has determined that it is inappropriate to employ the procedures set out in Section 122 of CERCLA as amended by SARA. Specifically, EPA will not engage in a moratorium as to its activities, and will not produce a non-binding allocation of responsibility. The Agency is already negotiating with a group of PRPs and EPA has provided information to the PRPs concerning the operation of the Picillo site. Use of the Section 122 procedure will not expedite settlement of this case, and may hinder cleanup of the site.

### CERCLA Release

As noted above, EPA has determined that a release of hazardous substances as defined by Section 101(14) and 101(22) of CERCLA has occurred at the above-referenced site.

### Past Response Activities at the Site

The Remedial Investigation, which defines the extent of contamination of the site, and the Feasibility Study, which evaluates remedial action alternatives for the site, and the Record of Decision which discusses and selects remedial actions for the site, are available for inspection in the Region I EPA Superfund Office in the JFK Federal Building in Boston.

### FORTHCOMING RESPONSE ACTIVITIES AT THE SITE

EPA is planning to conduct the following studies and activities at the Site:

1. Remedial Investigation of groundwater to identify the local characteristics and to define the nature and extent of groundwater contamination at the Site;

### 2. Feasibility Studies to evaluate the feasibility of

SYMBOL	possible remedial actions to remove or contain hazardous						
SURNAME	substances, pollutants, and contaminants at the Site;						
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3. Design and implementation of the remedial action selected and approved by EPA for the Site;\*
4. Operation, maintenance and monitoring necessary at the Site.

In addition to those enumerated above, EPA may, pursuant to its authorities under CERCLA and other laws, decide that other clean-up activities are necessary to protect public health, welfare or the environment.

\* EPA expects to enter a Consent Agreement with some PRP's in early fall 1987 for the removal of contaminated soil piles at the site.

#### TIMING AND FORM OF RESPONSES TO THIS LETTER

As a potentially responsible party, you should notify EPA in writing within thirty (30) days from receipt of this letter of your willingness to perform or finance the activities described above. If EPA does not receive a timely response, EPA will assume that your company does not wish to negotiate a resolution of its liabilities in connection with the Site and that your company has declined any involvement in performing the response activities.

Your letter should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in voluntary clean-up action, or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

Your response letter should be sent to:

U.S. Environmental Protection Agency  
Kenneth E. Wenger, RI Superfund Section  
Waste Management Division  
JFK Federal Building, HSV-1907  
Boston, MA 02203  
Telephone: (617) 565-3637

If you have an attorney representing you in this matter, please direct his or her questions to Susan Cortina of the EPA Office of Regional Counsel at (617) 565-3350.

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INFORMATION TO ASSIST RESPONSIBLE PARTIES

EPA would like to encourage good faith negotiations between you and the Agency and among you and other parties potentially responsible for the Site. To assist responsible parties in preparing a proposal and in negotiating with EPA concerning this matter, EPA is providing a list of the names and addresses of potentially responsible parties already notified, or to whom this notification is being provided. This list represents EPA's preliminary finding on the identities of potentially responsible parties. Inclusion on, or exclusion from, the list does not constitute a final determination by the Agency concerning the liability of any party for the hazard or contamination at the Site.

The factual and legal discussions in this letter are intended solely to provide notice and information, and such discussions are not to be construed as a final Agency position on any matter set forth herein. Due to the seriousness of the environmental and legal problems posed by conditions at the Site, EPA urges that immediate attention and a prompt response be given to this letter. EPA also encourages you to contact other potentially responsible parties.

By copy of this letter, EPA is notifying the State of Rhode Island of our intent to perform or enter into negotiations for the performance or financing of response actions at the Site.

Sincerely,

Merrill S. Hohman, Director  
Waste Management Division

Attachments

cc: Michael Deland, Regional Administrator  
Director, Office of Waste Programs Enforcement  
Susana Cortina, Office of Regional Counsel  
Ken Wenger, Waste Management Division  
Gary Powers, Office of RI Attorney General  
Thomas Getz, RI Department of Environmental Management  
Barbara McAllister, Chief, Superfund Enforcement Support Section

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